

SENATE BILL No. 302

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-26-1-5; IC 6-3.5; IC 6-8.1-15-13; IC 24-5-22-10; IC 34-30-2-156; IC 35-45-5-4.7; IC 36-1-10-2; IC 36-7-4-405; IC 36-8; IC 36-9-13-3.5.

Synopsis: Statewide 911 system and fees. Establishes the 11 member statewide 911 board (board). Provides that the treasurer of state serves as the chair of the board. Establishes the statewide 911 fund (fund). Appropriates money in the fund. Provides that the board shall administer the fund. Requires the board to impose a statewide 911 fee (fee) on each standard and prepaid subscriber of voice communications service in Indiana. Deposits fees in the fund. Prohibits a state agency or a political subdivision from imposing any additional fee relating to the provision of 911 service. Specifies the manner in which the board distributes money from the fund to public safety answering points (PSAPs). Specifies the permissible uses for funds distributed to a PSAP. Allows a county to establish an emergency telephone notification system. Requires a voice communications service provider to provide to a PSAP the necessary subscriber data to enable the PSAP to implement and operate a 911 system. Provides that proprietary information submitted to the board is confidential. Provides that after June 30, 2014, a county may not contain more than one PSAP. Requires each political subdivision or agency that operates a PSAP in a county containing more than one PSAP, not later than July 1, 2014, to enter into an interlocal agreement with every other political subdivision or agency that operates a PSAP in the same county. Provides that the interlocal agreement must: (1) provide for the staffing
(Continued next page)

Effective: Upon passage; July 1, 2010; July 1, 2014.

Hershman, Merritt, Wyss

January 11, 2010, read first time and referred to Committee on Homeland Security, Transportation & Veterans Affairs.

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and funding obligations of each county, political subdivision, or agency participating; and (2) be approved by the board. Makes conforming amendments. Repeals the statutes concerning: (1) the local monthly enhanced emergency telephone system fee; (2) the statewide monthly wireless enhanced 911 fee; and (3) emergency telephone notification systems. Provides for the expiration on July 1, 2014, of provisions that: (1) establish a public safety communications system and computer facilities district in a county having a consolidated city; and (2) allow certain other counties to establish a public safety communications systems district. Specifies that the remaining funds are transferred to the new enhanced 911 system fund. Specifies that funds remaining in: (1) the wireless emergency telephone system fund; (2) a county wireless emergency telephone system fund; or (3) a county or municipal wireline emergency telephone system fund; on July 1, 2010, are transferred to the statewide 911 fund.

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Introduced

Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

SENATE BILL No. 302

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-26-1-5 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2010]: Sec. 5. As used in this article, "system"
3 refers to the Indiana statewide wireless public safety voice and data
4 communications system. The term does not include the ~~enhanced~~
5 ~~emergency telephone statewide 911~~ system under ~~IC 36-8-16-2~~.
6 **IC 36-8-16.6-22.**

7 SECTION 2. IC 6-3.5-1.1-25, AS AMENDED BY P.L.146-2008,
8 SECTION 332, IS AMENDED TO READ AS FOLLOWS
9 [EFFECTIVE JULY 1, 2010]: Sec. 25. (a) As used in this section,
10 "public safety" refers to the following:

- 11 (1) A police and law enforcement system to preserve public peace
12 and order.
13 (2) A firefighting and fire prevention system.
14 (3) Emergency ambulance services (as defined in
15 IC 16-18-2-107).



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(4) Emergency medical services (as defined in IC 16-18-2-110).

(5) Emergency action (as defined in IC 13-11-2-65).

(6) A probation department of a court.

(7) Confinement, supervision, services under a community corrections program (as defined in IC 35-38-2.6-2), or other correctional services for a person who has been:

(A) diverted before a final hearing or trial under an agreement that is between the county prosecuting attorney and the person or the person's custodian, guardian, or parent and that provides for confinement, supervision, community corrections services, or other correctional services instead of a final action described in clause (B) or (C);

(B) convicted of a crime; or

(C) adjudicated as a delinquent child or a child in need of services.

(8) A juvenile detention facility under IC 31-31-8.

(9) A juvenile detention center under IC 31-31-9.

(10) A county jail.

(11) A communications system (as defined in IC 36-8-15-3 **(before its expiration on July 1, 2014))** or an **enhanced emergency telephone the statewide 911** system (as defined in ~~IC 36-8-16-2~~; **IC 36-8-16.6-22**).

(12) Medical and health expenses for jail inmates and other confined persons.

(13) Pension payments for any of the following:

(A) A member of the fire department (as defined in IC 36-8-1-8) or any other employee of a fire department.

(B) A member of the police department (as defined in IC 36-8-1-9), a police chief hired under a waiver under IC 36-8-4-6.5, or any other employee hired by a police department.

(C) A county sheriff or any other member of the office of the county sheriff.

(D) Other personnel employed to provide a service described in this section.

(b) If a county council has imposed a tax rate of at least twenty-five hundredths of one percent (0.25%) under section 24 of this chapter, a tax rate of at least twenty-five hundredths of one percent (0.25%) under section 26 of this chapter, or a total combined tax rate of at least twenty-five hundredths of one percent (0.25%) under sections 24 and 26 of this chapter, the county council may also adopt an ordinance to impose an additional tax rate under this section to provide funding for

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1 public safety.

2 (c) A tax rate under this section may not exceed twenty-five
3 hundredths of one percent (0.25%).

4 (d) If a county council adopts an ordinance to impose a tax rate
5 under this section, the county auditor shall send a certified copy of the
6 ordinance to the department and the department of local government
7 finance by certified mail.

8 (e) A tax rate under this section is in addition to any other tax rates
9 imposed under this chapter and does not affect the purposes for which
10 other tax revenue under this chapter may be used.

11 (f) Except as provided in subsection (k), the county auditor shall
12 distribute the portion of the certified distribution that is attributable to
13 a tax rate under this section to the county and to each municipality in
14 the county. The amount that shall be distributed to the county or
15 municipality is equal to the result of:

16 (1) the portion of the certified distribution that is attributable to a
17 tax rate under this section; multiplied by

18 (2) a fraction equal to:

19 (A) the attributed allocation amount (as defined in
20 IC 6-3.5-1.1-15) of the county or municipality for the calendar
21 year; divided by

22 (B) the sum of the attributed allocation amounts of the county
23 and each municipality in the county for the calendar year.

24 The county auditor shall make the distributions required by this
25 subsection not more than thirty (30) days after receiving the portion of
26 the certified distribution that is attributable to a tax rate under this
27 section. Tax revenue distributed to a county or municipality under this
28 subsection must be deposited into a separate account or fund and may
29 be appropriated by the county or municipality only for public safety
30 purposes.

31 (g) The department of local government finance may not require a
32 county or municipality receiving tax revenue under this section to
33 reduce the county's or municipality's property tax levy for a particular
34 year on account of the county's or municipality's receipt of the tax
35 revenue.

36 (h) The tax rate under this section and the tax revenue attributable
37 to the tax rate under this section shall not be considered for purposes
38 of computing:

39 (1) the maximum income tax rate that may be imposed in a county
40 under section 2 of this chapter or any other provision of this
41 chapter;

42 (2) the maximum permissible property tax levy under STEP

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EIGHT of IC 6-1.1-18.5-3(b);

(3) the total county tax levy under IC 6-1.1-21-2(g)(3), IC 6-1.1-21-2(g)(4), or IC 6-1.1-21-2(g)(5) (before the repeal of IC 6-1.1-21); or

(4) the credit under IC 6-1.1-20.6.

(i) The tax rate under this section may be imposed or rescinded at the same time and in the same manner that the county may impose or increase a tax rate under section 24 of this chapter.

(j) The department of local government finance and the department of state revenue may take any actions necessary to carry out the purposes of this section.

(k) Two (2) or more political subdivisions that are entitled to receive a distribution under this section may adopt resolutions providing that some part or all of those distributions shall instead be paid to one (1) political subdivision in the county to carry out specific public safety purposes specified in the resolutions.

SECTION 3. IC 6-3.5-6-18, AS AMENDED BY P.L.182-2009(ss), SECTION 222, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 18. (a) The revenue a county auditor receives under this chapter shall be used to:

(1) replace the amount, if any, of property tax revenue lost due to the allowance of an increased homestead credit within the county;

(2) fund the operation of a public communications system and computer facilities district as provided in an election, if any, made by the county fiscal body under IC 36-8-15-19(b) **(before its expiration on July 1, 2014);**

(3) fund the operation of a public transportation corporation as provided in an election, if any, made by the county fiscal body under IC 36-9-4-42;

(4) make payments permitted under IC 36-7-14-25.5 or IC 36-7-15.1-17.5;

(5) make payments permitted under subsection (i);

(6) make distributions of distributive shares to the civil taxing units of a county; and

(7) make the distributions permitted under sections 27, 28, 29, 30, 31, 32, and 33 of this chapter.

(b) The county auditor shall retain from the payments of the county's certified distribution, an amount equal to the revenue lost, if any, due to the increase of the homestead credit within the county. This money shall be distributed to the civil taxing units and school corporations of the county as though they were property tax collections and in such a manner that no civil taxing unit or school corporation shall suffer a net

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revenue loss due to the allowance of an increased homestead credit.

(c) The county auditor shall retain:

(1) the amount, if any, specified by the county fiscal body for a particular calendar year under subsection (i), IC 36-7-14-25.5, IC 36-7-15.1-17.5, IC 36-8-15-19(b) **(before its expiration on July 1, 2014)**, and IC 36-9-4-42 from the county's certified distribution for that same calendar year; and

(2) the amount of an additional tax rate imposed under section 27, 28, 29, 30, 31, 32, or 33 of this chapter.

The county auditor shall distribute amounts retained under this subsection to the county.

(d) All certified distribution revenues that are not retained and distributed under subsections (b) and (c) shall be distributed to the civil taxing units of the county as distributive shares.

(e) The amount of distributive shares that each civil taxing unit in a county is entitled to receive during a month equals the product of the following:

(1) The amount of revenue that is to be distributed as distributive shares during that month; multiplied by

(2) A fraction. The numerator of the fraction equals the allocation amount for the civil taxing unit for the calendar year in which the month falls. The denominator of the fraction equals the sum of the allocation amounts of all the civil taxing units of the county for the calendar year in which the month falls.

(f) The department of local government finance shall provide each county auditor with the fractional amount of distributive shares that each civil taxing unit in the auditor's county is entitled to receive monthly under this section.

(g) Notwithstanding subsection (e), if a civil taxing unit of an adopting county does not impose a property tax levy that is first due and payable in a calendar year in which distributive shares are being distributed under this section, that civil taxing unit is entitled to receive a part of the revenue to be distributed as distributive shares under this section within the county. The fractional amount such a civil taxing unit is entitled to receive each month during that calendar year equals the product of the following:

(1) The amount to be distributed as distributive shares during that month; multiplied by

(2) A fraction. The numerator of the fraction equals the budget of that civil taxing unit for that calendar year. The denominator of the fraction equals the aggregate budgets of all civil taxing units of that county for that calendar year.

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(h) If for a calendar year a civil taxing unit is allocated a part of a county's distributive shares by subsection (g), then the formula used in subsection (e) to determine all other civil taxing units' distributive shares shall be changed each month for that same year by reducing the amount to be distributed as distributive shares under subsection (e) by the amount of distributive shares allocated under subsection (g) for that same month. The department of local government finance shall make any adjustments required by this subsection and provide them to the appropriate county auditors.

(i) Notwithstanding any other law, a county fiscal body may pledge revenues received under this chapter (other than revenues attributable to a tax rate imposed under section 30, 31, or 32 of this chapter) to the payment of bonds or lease rentals to finance a qualified economic development tax project under IC 36-7-27 in that county or in any other county if the county fiscal body determines that the project will promote significant opportunities for the gainful employment or retention of employment of the county's residents.

SECTION 4. IC 6-3.5-6-31, AS AMENDED BY P.L.146-2008, SECTION 342, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 31. (a) As used in this section, "public safety" refers to the following:

- (1) A police and law enforcement system to preserve public peace and order.
- (2) A firefighting and fire prevention system.
- (3) Emergency ambulance services (as defined in IC 16-18-2-107).
- (4) Emergency medical services (as defined in IC 16-18-2-110).
- (5) Emergency action (as defined in IC 13-11-2-65).
- (6) A probation department of a court.
- (7) Confinement, supervision, services under a community corrections program (as defined in IC 35-38-2.6-2), or other correctional services for a person who has been:
 - (A) diverted before a final hearing or trial under an agreement that is between the county prosecuting attorney and the person or the person's custodian, guardian, or parent and that provides for confinement, supervision, community corrections services, or other correctional services instead of a final action described in clause (B) or (C);
 - (B) convicted of a crime; or
 - (C) adjudicated as a delinquent child or a child in need of services.
- (8) A juvenile detention facility under IC 31-31-8.

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(9) A juvenile detention center under IC 31-31-9.

(10) A county jail.

(11) A communications system (as defined in IC 36-8-15-3) **(before its expiration on July 1, 2014)** or ~~an enhanced emergency telephone~~ **the statewide 911 system** (as defined in ~~IC 36-8-16-2~~; **IC 36-8-16.6-22**).

(12) Medical and health expenses for jail inmates and other confined persons.

(13) Pension payments for any of the following:

(A) A member of the fire department (as defined in IC 36-8-1-8) or any other employee of a fire department.

(B) A member of the police department (as defined in IC 36-8-1-9), a police chief hired under a waiver under IC 36-8-4-6.5, or any other employee hired by a police department.

(C) A county sheriff or any other member of the office of the county sheriff.

(D) Other personnel employed to provide a service described in this section.

(b) The county income tax council may adopt an ordinance to impose an additional tax rate under this section to provide funding for public safety if:

(1) the county income tax council has imposed a tax rate under section 30 of this chapter, in the case of a county containing a consolidated city; or

(2) the county income tax council has imposed a tax rate of at least twenty-five hundredths of one percent (0.25%) under section 30 of this chapter, a tax rate of at least twenty-five hundredths of one percent (0.25%) under section 32 of this chapter, or a total combined tax rate of at least twenty-five hundredths of one percent (0.25%) under sections 30 and 32 of this chapter, in the case of a county other than a county containing a consolidated city.

(c) A tax rate under this section may not exceed the following:

(1) Five-tenths of one percent (0.5%), in the case of a county containing a consolidated city.

(2) Twenty-five hundredths of one percent (0.25%), in the case of a county other than a county containing a consolidated city.

(d) If a county income tax council adopts an ordinance to impose a tax rate under this section, the county auditor shall send a certified copy of the ordinance to the department and the department of local government finance by certified mail.

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(e) A tax rate under this section is in addition to any other tax rates imposed under this chapter and does not affect the purposes for which other tax revenue under this chapter may be used.

(f) Except as provided in subsection (l), the county auditor shall distribute the portion of the certified distribution that is attributable to a tax rate under this section to the county and to each municipality in the county. The amount that shall be distributed to the county or municipality is equal to the result of:

(1) the portion of the certified distribution that is attributable to a tax rate under this section; multiplied by

(2) a fraction equal to:

(A) the total property taxes being collected in the county by the county or municipality for the calendar year; divided by

(B) the sum of the total property taxes being collected in the county by the county and each municipality in the county for the calendar year.

The county auditor shall make the distributions required by this subsection not more than thirty (30) days after receiving the portion of the certified distribution that is attributable to a tax rate under this section. Tax revenue distributed to a county or municipality under this subsection must be deposited into a separate account or fund and may be appropriated by the county or municipality only for public safety purposes.

(g) The department of local government finance may not require a county or municipality receiving tax revenue under this section to reduce the county's or municipality's property tax levy for a particular year on account of the county's or municipality's receipt of the tax revenue.

(h) The tax rate under this section and the tax revenue attributable to the tax rate under this section shall not be considered for purposes of computing:

(1) the maximum income tax rate that may be imposed in a county under section 8 or 9 of this chapter or any other provision of this chapter;

(2) the maximum permissible property tax levy under STEP EIGHT of IC 6-1.1-18.5-3(b);

(3) the total county tax levy under IC 6-1.1-21-2(g)(3), IC 6-1.1-21-2(g)(4), or IC 6-1.1-21-2(g)(5) (before the repeal of IC 6-1.1-21); or

(4) the credit under IC 6-1.1-20.6.

(i) The tax rate under this section may be imposed or rescinded at the same time and in the same manner that the county may impose or

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1 increase a tax rate under section 30 of this chapter.

2 (j) The department of local government finance and the department
3 of state revenue may take any actions necessary to carry out the
4 purposes of this section.

5 (k) Notwithstanding any other provision, in Lake County the county
6 council (and not the county income tax council) is the entity authorized
7 to take actions concerning the additional tax rate under this section.

8 (l) Two (2) or more political subdivisions that are entitled to receive
9 a distribution under this section may adopt resolutions providing that
10 some part or all of those distributions shall instead be paid to one (1)
11 political subdivision in the county to carry out specific public safety
12 purposes specified in the resolutions.

13 SECTION 5. IC 6-8.1-15-13 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 13. (a) Except as
15 provided by section 20 of this chapter, this chapter applies to:

16 (1) the gross retail tax imposed on mobile telecommunications
17 service under IC 6-2.5-4-6;

18 (2) the ~~monthly emergency wireless enhanced statewide~~ 911 fee
19 imposed on ~~mobile telecommunications~~ **voice communications**
20 service under ~~IC 36-8-16.5~~; **IC 36-8-16.6**; and

21 (3) any other tax, charge, or fee levied by the state or a taxing
22 jurisdiction within Indiana as a fixed charge for each customer or
23 measured by gross amounts charged to customers for mobile
24 telecommunications service, regardless of whether the tax,
25 charge, or fee is imposed on the vendor or customer of the service
26 and regardless of the terminology used to describe the tax, charge,
27 or fee;

28 on bills for mobile telecommunications service issued to customers
29 after July 31, 2002.

30 (b) This chapter does not apply to:

31 (1) any tax, charge, or fee levied upon or measured by the net
32 income, capital stock, net worth, or property value of the provider
33 of mobile telecommunications service;

34 (2) any tax, charge, or fee that is applied to an equitably
35 apportioned amount that is not determined on a transactional
36 basis;

37 (3) any tax, charge, or fee that:

38 (A) represents compensation for a mobile telecommunications
39 service provider's use of public rights-of-way or other public
40 property; and

41 (B) is not levied by the taxing jurisdiction as a fixed charge for
42 each customer or measured by gross amounts charged to

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- customers for mobile telecommunication service;
- (4) any generally applicable business and occupation tax that is imposed by the state, is applied to gross receipts or gross proceeds, is the legal liability of the home service provider, and that statutorily allows the home service provider to elect to use the sourcing method required in this section; or
- (5) the determination of the taxing situs of:
- (A) prepaid telephone calling service; or
- (B) air-ground radiotelephone service as defined in Section 22.99 of Title 47 of the Code of Federal Regulations as in effect June 1, 1999.

SECTION 6. IC 24-5-22-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10. (a) The following have a right of action against a person who initiates or assists the transmission of a commercial electronic mail message that violates this chapter:

- (1) A person who receives the commercial electronic mail message.
- (2) An interactive computer service that handles or retransmits the commercial electronic mail message.
- (b) This chapter does not provide a right of action against:
- (1) an interactive computer service;
- (2) a telephone company; or
- (3) a CMRS provider (as defined by ~~IC 36-8-16.5-6~~); **in IC 36-8-16.6-6**;

whose equipment is used to transport, handle, or retransmit a commercial electronic mail message that violates this chapter.

(c) It is a defense to an action under this section if the defendant shows by a preponderance of the evidence that the violation of this chapter resulted from a good faith error and occurred notwithstanding the maintenance of procedures reasonably adopted to avoid violations of this chapter.

(d) If the plaintiff prevails in an action filed under this section, the plaintiff is entitled to the following:

- (1) An injunction to enjoin future violations of this chapter.
- (2) Compensatory damages equal to any actual damage proven by the plaintiff to have resulted from the initiation of the commercial electronic mail message. If the plaintiff does not prove actual damage, the plaintiff is entitled to presumptive damages of five hundred dollars (\$500) for each commercial electronic mail message that violates this chapter and that is sent by the defendant:

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- 1 (A) to the plaintiff; or
 2 (B) through the plaintiff's interactive computer service.
 3 (3) The plaintiff's reasonable attorney's fees and other litigation
 4 costs reasonably incurred in connection with the action.
 5 (e) A person outside Indiana who:
 6 (1) initiates or assists the transmission of a commercial electronic
 7 mail message that violates this chapter; and
 8 (2) knows or should know that the commercial electronic mail
 9 message will be received in Indiana;
 10 submits to the jurisdiction of Indiana courts for purposes of this
 11 chapter.
 12 SECTION 7. IC 34-30-2-156 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 156. ~~IC 36-8-16-18~~
 14 **IC 36-8-16.6-48 (Concerning the statewide 911 board, a PSAP, a**
 15 **political subdivision, a voice communications service suppliers or**
 16 **telephone companies provider, a member of the board, or the board**
 17 **chair for loss, death, or injury related to an enhanced emergency**
 18 **telephone a statewide 911 system).**
 19 SECTION 8. IC 35-45-5-4.7, AS AMENDED BY P.L.27-2006,
 20 SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2010]: Sec. 4.7. (a) An interactive computer service that
 22 handles or retransmits a commercial electronic mail message has a
 23 right of action against a person who initiates or assists the transmission
 24 of the commercial electronic mail message that violates this chapter.
 25 (b) This chapter does not provide a right of action against:
 26 (1) an interactive computer service;
 27 (2) a telephone company;
 28 (3) a CMRS provider (as defined in ~~IC 36-8-16.5-6~~);
 29 **IC 36-8-16.6-6**);
 30 (4) a cable operator (as defined in 47 U.S.C. 522(5)); or
 31 (5) any other entity that primarily provides connectivity to an
 32 operator;
 33 if the entity's equipment is used only to transport, handle, or retransmit
 34 information that violates this chapter and is not capable of blocking the
 35 retransmission of information that violates this chapter.
 36 (c) It is a defense to an action under this section if the defendant
 37 shows by a preponderance of the evidence that the violation of this
 38 chapter resulted from a good faith error and occurred notwithstanding
 39 the maintenance of procedures reasonably adopted to avoid violating
 40 this chapter.
 41 (d) If the plaintiff prevails in an action filed under this section, the
 42 plaintiff is entitled to the following:

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(1) An injunction to enjoin future violations of this chapter.

(2) Compensatory damages equal to any actual damage proven by the plaintiff to have resulted from the initiation of the commercial electronic mail message. If the plaintiff does not prove actual damage, the plaintiff is entitled to presumptive damages of five hundred dollars (\$500) for each commercial electronic mail message that violates this chapter and that is sent by the defendant:

(A) to the plaintiff; or

(B) through the plaintiff's interactive computer service.

(3) The plaintiff's reasonable attorney's fees and other litigation costs reasonably incurred in connection with the action.

(e) A person outside Indiana who:

(1) initiates or assists the transmission of a commercial electronic mail message that violates this chapter; and

(2) knows or should know that the commercial electronic mail message will be received in Indiana;

submits to the jurisdiction of Indiana courts for purposes of this chapter.

SECTION 9. IC 36-1-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. As used in this chapter:

"Leasing agent" means the board or officer of a political subdivision or agency with the power to lease structures.

"Parking facility" refers to a parking facility as defined in IC 36-9-1.

"Structure" means:

(1) a building used in connection with the operation of a political subdivision; or

(2) a parking facility.

The term includes the site, the equipment, and appurtenances to the building or parking facility.

"System" means:

(1) a computer (as defined in IC 36-8-15-4) **(before its expiration on July 1, 2014);**

(2) a communications system (as defined in IC 36-8-15-3(1) **(before its expiration on July 1, 2014));** or

(3) mobile or remote equipment that is coordinated by or linked with a computer or communications system.

"Transportation project" means a road or highway project jointly undertaken by the Indiana department of transportation and any county through which a toll road project under IC 8-15-2 passes. A transportation project must be located within an area described in

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1 IC 8-15-2-1(a)(3) or IC 8-15-2-1(a)(4).

2 SECTION 10. IC 36-7-4-405 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 405. (a) ADVISORY
4 – AREA. Each plan commission shall:

5 (1) make recommendations to the legislative body or bodies
6 concerning:

7 (A) the adoption of the comprehensive plan and amendments
8 to the comprehensive plan;

9 (B) the adoption or text amendment of:

10 (i) an initial zoning ordinance;

11 (ii) a replacement zoning ordinance; and

12 (iii) a subdivision control ordinance;

13 (C) the adoption or amendment of a PUD district ordinance (as
14 defined in section 1503 of this chapter); and

15 (D) zone map changes; and

16 (2) render decisions concerning and approve plats, replats, and
17 amendments to plats of subdivisions under the 700 series of this
18 chapter.

19 (b) Each plan commission:

20 (1) shall assign street numbers to lots and structures;

21 (2) shall renumber lots and structures; and

22 (3) if the plan commission does not have the power under an
23 ordinance adopted under subsection (c) to name or rename streets,
24 may recommend the naming and renaming of streets to the
25 executive.

26 (c) The executive shall name or rename streets. However, a unit may
27 provide by ordinance that the plan commission rather than the
28 executive shall name or rename streets. Streets shall be named or
29 renamed so that their names are easy to understand and to avoid
30 duplication or conflict with other names. The plan commission may, by
31 rule, prescribe a numbering system for lots and structures.

32 (d) This subsection applies to a plan commission having jurisdiction
33 in a county with a population of at least four hundred thousand
34 (400,000). The plan commission shall number structures on highways
35 within the plan commission's jurisdiction to conform with the numbers
36 of structures on streets within cities in the county.

37 (e) This subsection applies to unincorporated areas subject to the
38 jurisdiction of no plan commission under this article. The county
39 executive:

40 (1) must approve the assignment of street numbers to lots and
41 structures; and

42 (2) may number or renumber lots and structures and name or

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1 rename streets.

2 (f) This subsection applies to areas located within a municipality
3 that are subject to the jurisdiction of no plan commission under this
4 article. The executive of the municipality:

5 (1) must approve the assignment of street numbers to lots and
6 structures; and

7 (2) may number or renumber lots and structures and name or
8 rename streets.

9 (g) An executive acting under subsection (e) or (f) shall name or
10 rename streets:

11 (1) so that their names are easy to understand; and

12 (2) to avoid duplication or conflict with other names.

13 (h) If streets are named or renamed or lots and structures are
14 numbered or renumbered under this section, the commission or
15 executive that makes the naming or numbering decision shall notify:

16 (1) the circuit court clerk or board of registration;

17 (2) the ~~administrator of the enhanced emergency telephone~~
18 ~~system established under IC 36-8-16, if any;~~ **statewide 911 board**
19 **established by IC 36-8-16.6-26;**

20 (3) the United States Postal Service; and

21 (4) any person or body that the commission or executive considers
22 appropriate to receive notice;

23 of its action no later than the last day of the month following the month
24 in which the action is taken.

25 (i) Each plan commission shall make decisions concerning
26 development plans and amendments to development plans under the
27 1400 series of this chapter, unless the responsibility to render decisions
28 concerning development plans has been delegated under section
29 1402(c) of this chapter.

30 SECTION 11. IC 36-8-15-0.5 IS ADDED TO THE INDIANA
31 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
32 [EFFECTIVE UPON PASSAGE]: **Sec. 0.5. This chapter expires July**
33 **1, 2014.**

34 SECTION 12. IC 36-8-15.1 IS ADDED TO THE INDIANA CODE
35 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
36 JULY 1, 2014]:

37 **Chapter 15.1. Public Communications Systems; Transitional**
38 **Matters**

39 **Sec. 1. (a) Notwithstanding the expiration of IC 36-8-15 on July**
40 **1, 2014:**

41 (1) **a public safety communications systems and computer**
42 **facilities district created by IC 36-8-15-7(a) (before its**

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1 expiration on July 1, 2014); and

2 (2) a public safety communications systems district created
3 under IC 36-8-15-7(b) (before its expiration on July 1, 2014);
4 remain in existence until such time as all bonds, loans, lease
5 payments, or other obligations that were issued, obtained, or
6 incurred by the district before July 1, 2014, are satisfied according
7 to their terms.

8 (b) Notwithstanding the expiration of IC 36-8-15-14 on July 1,
9 2014, all taxable property located within:

10 (1) a public safety communications systems and computer
11 facilities district created by IC 36-8-15-7(a) (before its
12 expiration on July 1, 2014); and

13 (2) a public safety communications systems district created
14 under IC 36-8-15-7(b) (before its expiration on July 1, 2014);
15 remains subject to a special benefits tax as provided for by
16 IC 36-8-15-14 (before its expiration on July 1, 2014) until such time
17 as revenue from the tax is no longer needed by the district to satisfy
18 any bonds, loans, lease payments, or other obligations that were
19 issued, obtained, or incurred by the district before July 1, 2014.

20 (c) Notwithstanding the expiration of IC 36-8-15-18 on July 1,
21 2014, all property located within a public safety communications
22 systems and computer facilities district in a county having a
23 consolidated city remains subject to a special tax as provided for
24 by IC 36-8-15-18 (before its expiration on July 1, 2014) until such
25 time as revenue from the special tax is no longer needed by the
26 district to satisfy any bonds that were issued by the district before
27 July 1, 2014.

28 (d) Notwithstanding the expiration of IC 36-8-15-19 on July 1,
29 2014, all property located within a public safety communications
30 systems district in a county not having a consolidated city remains
31 subject to an ad valorem property tax as provided for by
32 IC 36-8-15-19(a) (before its expiration on July 1, 2014) until such
33 time as revenue from the tax is no longer needed by the district to
34 satisfy any bonds, loans, lease payments, or other obligations that
35 were issued, obtained, or incurred by the district before July 1,
36 2012.

37 (e) After June 30, 2014:

38 (1) a public safety communications systems and computer
39 facilities district created by IC 36-8-15-7(a) (before its
40 expiration on July 1, 2014); and

41 (2) a public safety communications systems district created
42 under IC 36-8-15-7(b) (before its expiration on July 1, 2014);

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may not pledge revenue from any bonds issued or taxes levied under IC 36-8-15 (before its expiration on July 1, 2014) before July 1, 2014.

Sec. 2. Not later than November 1 of each year:

(1) a public safety communications systems and computer facilities district created by IC 36-8-15-7(a) (before its expiration on July 1, 2014); and

(2) a public safety communications systems district created under IC 36-8-15-7(b) (before its expiration on July 1, 2014);

shall report in an electronic format under IC 5-14-6 to the general assembly whether all bonds, loans, lease payments, or other obligations that were issued, obtained, or incurred by the district before July 1, 2014, are satisfied according to their terms. If the general assembly determines, based on a report submitted under this subsection, that all bonds, loans, lease payments, or other obligations that were issued, obtained, or incurred by the district before July 1, 2014, are satisfied according to their terms, the general assembly shall introduce legislation during the immediately following legislative session to repeal this chapter.

SECTION 13. IC 36-8-16.6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

Chapter 16.6. Statewide 911 Services

Sec. 1. As used in this chapter, "affiliate" has the meaning set forth in IC 23-1-43-1. The term includes a parent company or a subsidiary.

Sec. 2. (a) As used in this chapter, "automatic location identification" means an enhanced 911 service capability that enables the transmission of information concerning the location of a caller who places a 911 call.

(b) In the case of a 911 call placed from a wireless telephone, the term includes both:

(1) information on the location of the cell site or base station transmitting the call, as required under Phase I of the FCC Order; and

(2) more precise information on the caller's location, including the location of the caller by latitude and longitude within the accuracy requirements specified by the Federal Communications Commission under Phase II of the FCC Order.

(c) In the case of a 911 call placed by a subscriber of interconnected VOIP service, the term refers to the subscriber's

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1 registered location (as defined in 47 CFR 9.3).

2 Sec. 3. As used in this chapter, "automatic number
3 identification" means an enhanced 911 service capability that
4 enables the transmission and display of the ten (10) digit telephone
5 number used to place a 911 call to a PSAP.

6 Sec. 4. As used in this chapter, "board" refers to the statewide
7 911 board established by section 26 of this chapter.

8 Sec. 5. (a) As used in this chapter, "CMRS" refers to
9 commercial mobile radio service (as defined in 47 CFR 20.3).

10 (b) The term includes the following:

11 (1) Services commonly referred to as wireless.

12 (2) Services provided by a wireless real time two-way voice
13 communication device, including radio-telephone
14 communications used in:

15 (A) cellular telephone service;

16 (B) personal communications service; or

17 (C) the functional or competitive equivalent of a
18 radio-telephone communications line used in:

19 (i) cellular telephone service;

20 (ii) a personal communications service; or

21 (iii) a network radio access line.

22 (3) Any other wireless service that provides direct access to a
23 PSAP through placement of a 911 call.

24 Sec. 6. As used in this chapter, "CMRS provider" means a
25 provider that offers CMRS to subscribers in Indiana.

26 Sec. 7. As used in this chapter, "executive director" means the
27 executive director of the board.

28 Sec. 8. (a) As used in this chapter, "FCC order" refers to the
29 order of the Federal Communications Commission, FCC Docket
30 No. 94-102, adopted June 12, 1996, with an effective date of
31 October 1, 1996.

32 (b) The term includes any rules, regulations, and consent
33 decrees adopted by the Federal Communications Commission to
34 implement the order described in subsection (a).

35 Sec. 9. As used in this chapter, "fund" refers to the statewide
36 911 fund established under section 31 of this chapter.

37 Sec. 10. As used in this chapter, "interconnected VOIP service"
38 has the meaning set forth in 47 CFR 9.3.

39 Sec. 11. As used in this chapter, "local exchange carrier" has the
40 meaning set forth in 47 U.S.C. 153(26).

41 Sec. 12. As used in this chapter, "multiline telephone system"
42 means a voice communications service system that includes the

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1 following:

- 2 (1) Common control units.
- 3 (2) Telephone sets.
- 4 (3) Control hardware and software.
- 5 (4) Adjunct systems.

6 The term includes network and premises based systems as
7 classified by FCC Part 68 Requirements.

8 Sec. 13. As used in this chapter, "prepaid 911 fee" means the fee
9 that is imposed on and collected from a prepaid subscriber under
10 section 37 of this chapter.

11 Sec. 14. As used in this chapter, "prepaid voice communications
12 service" means a right:

- 13 (1) to purchase communications service, either exclusively or
14 in conjunction with other services;
 - 15 (2) that must be paid for in advance; and
 - 16 (3) that is sold in:
17 (A) units; or
18 (B) dollar amounts;
- 19 that decline with use and that are known on a continuous
20 basis.

21 Sec. 15. As used in this chapter, "prepaid subscriber" refers to
22 a subscriber of prepaid voice communications service who:

- 23 (1) is issued an Indiana telephone number or an Indiana
24 identification number for the service; or
- 25 (2) purchases prepaid voice communications service in a retail
26 transaction in Indiana.

27 Sec. 16. As used in this chapter, "proprietary information"
28 includes the following:

- 29 (1) Customer lists and related information.
- 30 (2) Technology descriptions, technical information, or trade
31 secrets (as defined in IC 24-2-3-2).
- 32 (3) Information concerning the actual or developmental costs
33 of 911 systems that are developed, produced, or received
34 internally by a provider or by a provider's employees,
35 directors, officers, or agents.

36 Sec. 17. (a) As used in this chapter, "provider" means a person
37 or entity, or an affiliate of a person or an entity that:

- 38 (1) offers voice communications service to subscribers in
39 Indiana; and
- 40 (2) provides, or is required by the Federal Communications
41 Commission to provide, a caller with direct access to a PSAP
42 through the placement of a 911 call.

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(b) The term includes the following:

(1) Facilities based and nonfacilities based resellers of voice communications service.

(2) Any other provider of voice communications service through wireline or wireless means, regardless of whether the provider is subject to regulation by the Indiana utility regulatory commission.

Sec. 18. As used in this chapter, "PSAP" refers to a public safety answering point:

(1) that operates on a twenty-four (24) hour basis; and

(2) whose primary function is to receive incoming emergency requests for assistance and relay those requests to an appropriate responding public safety agency.

Sec. 19. As used in this chapter, "retail transaction" means the purchase of prepaid voice communications service from a seller for any purpose other than resale.

Sec. 20. As used in this chapter, "seller" means a person that sells prepaid voice communications service to another person.

Sec. 21. As used in this chapter, "standard subscriber" refers to a subscriber of voice communications service who pays retrospectively for the service and has an Indiana billing address for the service.

Sec. 22. (a) As used in this chapter, "statewide 911 system" means a voice communications system that uses the three (3) digit number 911 to send automatic number identification and automatic location identification for reporting police, fire, medical, or other emergency situations.

(b) The term includes the following:

(1) A wireline enhanced emergency telephone system funded under IC 36-8-16 (before its repeal on July 1, 2010).

(2) A wireless 911 emergency telephone system funded under IC 36-8-16.5 (before its repeal on July 1, 2010).

(3) An emergency telephone notification system established under IC 36-8-21-4.

Sec. 23. As used in this chapter, "subscriber" refers to a standard subscriber or a prepaid subscriber of voice communications service.

Sec. 24. (a) As used in this chapter, "voice communications service" means any service or device that:

(1) uses telephone numbers or IP addresses or their functional equivalents or successors;

(2) is capable of accessing, connecting with, or interfacing

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with a 911 system by dialing, initializing, or otherwise activating the 911 system regardless of the transmission medium or technology employed;

(3) provides or enables real time or interactive communications; and

(4) is either prepaid or postpaid by the subscriber.

(b) The term includes the following:

(1) Internet protocol enabled services and applications that are provided through wireline, cable, wireless, or satellite facilities, or any other facility or platform that is capable of connecting a 911 call to a PSAP.

(2) A multiline telephone system.

(3) CMRS.

(4) Interconnected VOIP service and voice over power lines.

Sec. 25. As used in this chapter, "VOIP provider" means a provider that offers interconnected VOIP service to subscribers in Indiana.

Sec. 26. (a) The statewide 911 board is established to develop, implement, and oversee the statewide 911 system. The board is a body corporate and politic, and though it is separate from the state, the exercise by the board of its powers constitutes an essential governmental function.

(b) The following recommendations must be made to the governor concerning the membership of the board:

(1) The executive committees of:

(A) the Indiana chapter of the National Emergency Number Association (NENA); and

(B) the Indiana chapter of the Association of Public Safety Communication Officials International (APCO);

shall jointly recommend three (3) individuals.

(2) The CMRS providers authorized to provide CMRS in Indiana shall jointly recommend one (1) individual.

(3) The Indiana Association of County Commissioners shall recommend one (1) individual.

(4) The Indiana Sheriff's Association shall recommend one (1) individual.

(5) The Indiana Telephone Association shall recommend two (2) individuals as follows:

(A) One (1) individual representing a local exchange carrier that serves less than fifty thousand (50,000) local exchange access lines in Indiana.

(B) One (1) individual representing a local exchange

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- 1 carrier that serves at least fifty thousand (50,000) local
 2 exchange access lines in Indiana.
- 3 (6) The Indiana Cable Telecommunications Association shall
 4 recommend one (1) individual.
- 5 (c) The board consists of the following eleven (11) members:
- 6 (1) The treasurer of state or the treasurer's designee. The
 7 treasurer of state or the treasurer's designee is chairperson of
 8 the board for a term concurrent with the treasurer of state's
 9 term of office. However, the treasurer of state's designee
 10 serves at the pleasure of the treasurer of state.
- 11 (2) Three (3) members for a term of three (3) years who are
 12 appointed by the governor after considering the
 13 recommendations of the executive committees of NENA and
 14 APCO that are submitted under subsection (b)(1). At least one
 15 (1) member appointed under this subdivision must have
 16 budget experience at the local level.
- 17 (3) One (1) CMRS member who is appointed by the governor
 18 after considering the recommendation of the CMRS providers
 19 that is submitted under subsection (b)(2). A member
 20 appointed under this subdivision may not be affiliated with
 21 the same business entity as a member appointed under
 22 subdivision (6), (7), or (8).
- 23 (4) One (1) county commissioner member appointed by the
 24 governor after considering the recommendation of the
 25 Indiana Association of County Commissioners that is
 26 submitted under subsection (b)(3).
- 27 (5) One (1) county sheriff member appointed by the governor
 28 after considering the recommendation of the Indiana Sheriffs'
 29 Association that is submitted under subsection (b)(4).
- 30 (6) One (1) local exchange carrier member that serves less
 31 than fifty thousand (50,000) local exchange access lines in
 32 Indiana appointed by the governor after considering the
 33 recommendation of the Indiana Telephone Association under
 34 subsection (b)(5)(A). A member appointed under this
 35 subdivision may not be affiliated with the same business entity
 36 as a member appointed under subdivision (3), (7), or (8).
- 37 (7) One (1) local exchange carrier member that serves at least
 38 fifty thousand (50,000) local exchange access lines in Indiana
 39 appointed by the governor after considering the
 40 recommendation of the Indiana Telephone Association under
 41 subsection (b)(5)(B). A member appointed under this
 42 subdivision may not be affiliated with the same business entity

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as a member appointed under subdivision (3), (6), or (8).

(8) One (1) VOIP provider who is appointed by the governor after considering the recommendation of the Indiana Cable Telecommunications Association under subsection (b)(6). A member appointed under this subdivision may not be affiliated with the same business entity as a member appointed under subdivision (3), (6), or (7).

(9) The superintendent of the state police department or the superintendent's designee.

(d) This subsection applies to a member appointed by the governor under subsection (c)(2) through (c)(8). The governor shall ensure that the terms of the initial members appointed by the governor are staggered so that the terms of not more than four (4) members expire in a single calendar year. After the initial appointments, subsequent appointments shall be for three (3) year terms. A vacancy on the board shall be filled for the vacating member's unexpired term in the same manner as the original appointment, and a member of the board is eligible for reappointment. In making an appointment under subsection (c)(2) through (c)(8), the governor shall take into account the various geographical areas of the state, including rural and urban areas. A member appointed by the governor serves at the pleasure of the governor.

(e) This subsection applies to a member appointed under subsection (c)(2) through (c)(8). A member shall submit the name of a designee to the board. The board shall maintain a list of approved designees. A member may appoint a listed designee to fill the member's position under subsection (c) or to act on behalf of the member at a meeting of the board. The designee serves at the pleasure of the appointing member.

(f) A member or a designee must be a resident of the state of Indiana.

(g) A member or a designee may vote by proxy.

Sec. 27. A majority of the members of the board constitutes a quorum for purposes of taking action.

Sec. 28. (a) Each member of the board who is not a state employee is not entitled to receive the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is, however, entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of

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administration and approved by the budget agency.

(b) Each member of the board who is a state employee is entitled to reimbursement for travel expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 29. The board may do the following to implement this chapter:

- (1) Sue and be sued.
- (2) Adopt and alter an official seal.
- (3) Adopt and enforce bylaws and rules for:
 - (A) the conduct of board business; and
 - (B) the use of board services and facilities.
- (4) Acquire, hold, use, and otherwise dispose of its income, revenues, funds, and money.
- (5) Enter into contracts, including contracts:
 - (A) for professional services;
 - (B) for purchase of supplies or services; and
 - (C) to acquire office space.
- (6) Hire staff.
- (7) Adopt rules under IC 4-22-2 to implement this chapter.
- (8) Develop, maintain, and update a statewide 911 plan.
- (9) Administer the statewide 911 fund established by section 31 of this chapter.
- (10) Administer and distribute the statewide 911 fee in accordance with section 42 of this chapter.
- (11) Take other necessary or convenient actions to implement this chapter that are not inconsistent with Indiana law.

Sec. 30. (a) The treasurer of state shall appoint an executive director of the board to do the following:

- (1) Administer, manage, and direct employees of the board.
- (2) Approve salaries and allowable expenses for board members, employees, and consultants.
- (3) Attend board meetings and record all proceedings of the board. However, the executive director is not considered a member of the board for any purpose, including voting or establishing a quorum.
- (4) Maintain books, documents, and papers filed with the board, including minutes.
- (5) Perform other duties as directed by the board.

The treasurer of state shall determine the salary and other

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1 compensation of the executive director.

2 (b) An executive director appointed under subsection (a) must
3 have at least three (3) years executive experience with a 911
4 system.

5 Sec. 31. (a) The statewide 911 fund is established for the purpose
6 of creating and maintaining a uniform statewide 911 system. The
7 board shall administer the fund. The expenses of administering the
8 fund must be paid from money in the fund.

9 (b) The fund consists of the following:

10 (1) The statewide 911 fee assessed on subscribers under
11 section 34 of this chapter.

12 (2) Appropriations made by the general assembly.

13 (3) Grants and gifts intended for deposit in the fund.

14 (4) Interest, premiums, gains, or other earnings on the fund.

15 (5) Money from any other source that is deposited in or
16 transferred to the fund.

17 (c) The board may invest money in the fund in the same manner
18 as other funds of the state may be invested under IC 5-13. In
19 addition, the board may invest money in the fund in any of the
20 following:

21 (1) Corporate bonds, notes, and debentures, subject to the
22 following conditions:

23 (A) Maximum participation in any issue is limited to seven
24 percent (7%) of the total issue.

25 (B) The board shall establish minimum quality rating
26 standards and maximum purchase amount standards for
27 corporate issues.

28 (2) Investments maturing in one (1) year or less, subject to the
29 following conditions:

30 (A) These investments must be:

31 (i) Prime-1 commercial paper; and

32 (ii) banker's acceptance approved by banks' trust
33 investment committees.

34 (B) The maximum amount may not exceed fifty percent
35 (50%) of the fund.

36 (d) Whenever the quality, maturity, and yield of an investment
37 in an Indiana corporation or in a corporation that does business in
38 Indiana are equal to or better than similar investments in other
39 corporations, preference shall be given to investment in the
40 Indiana corporation or in the corporation that does business in
41 Indiana.

42 (e) Money in the fund at the end of a state fiscal year does not

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1 revert to the state general fund.

2 (f) Money in the fund is continuously appropriated for the
3 purposes of the fund.

4 Sec. 32. (a) The board shall select a third party to audit the fund
5 on an annual basis to determine whether the fund is being managed
6 in accordance with this chapter.

7 (b) Every year, the board shall review 911 service in Indiana,
8 including the collection, disbursement, and use of the statewide 911
9 fee assessed under section 34 of this chapter. The purpose of the
10 review is to ensure that the statewide 911 fees:

11 (1) do not exceed the amount reasonably necessary to provide
12 adequate and efficient 911 service; and

13 (2) are used only for the purposes set forth in this chapter.

14 Sec. 33. The board may retain an independent, third party
15 accounting firm or fiscal agent for purposes of processing checks
16 and distributing funds as directed by the board and as allowed by
17 this chapter. The board shall pay for these services as an
18 administrative cost of the board.

19 Sec. 34. (a) The board shall assess a statewide 911 fee on each
20 subscriber at rates that:

21 (1) ensure full recovery of the amount needed for the board to
22 make distributions to PSAPs consistent with this chapter; and

23 (2) provide for proper development, operation, and
24 maintenance of a statewide 911 system.

25 The amount of the initial fee assessed under this subsection is one
26 dollar (\$1).

27 (b) Subject to legislative approval, the board may increase the
28 statewide 911 fee to ensure adequate revenue for the board to
29 fulfill its duties and obligations under this chapter.

30 (c) An additional fee relating to the provision of 911 service may
31 not be levied by a state agency or local unit of government.

32 Sec. 35. (a) Except as provided in subsection (b), the statewide
33 911 fee assessed under section 34 of this chapter shall be collected
34 and remitted as follows:

35 (1) For standard subscribers, as provided in section 36 of this
36 chapter.

37 (2) For prepaid subscribers, as provided in section 37 of this
38 chapter.

39 (b) A subscriber that is the federal government or an agency of
40 the federal government is exempt from the statewide 911 fee
41 assessed under section 34 of this chapter.

42 Sec. 36. (a) As part of its normal monthly billing process, a

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provider:

(1) shall collect the fee from each standard subscriber having a place of primary use in Indiana, as determined in the manner provided by IC 6-8.1-15; and

(2) may list the fee as a separate line item on each bill.

If a provider receives a partial payment for a monthly bill from a standard subscriber, the provider shall apply the payment against the amount the standard subscriber owes to the provider before applying the payment against the fee. A provider may not prorate the monthly 911 fee collected from a subscriber.

(b) Subject to subsection (c), a provider shall remit statewide 911 fees collected under this section to the board at the time and in the manner prescribed by the board.

(c) A provider may deduct and retain an amount not to exceed one percent (1%) of statewide 911 fees that the provider collects from standard subscribers to reimburse the direct costs incurred by the provider in collecting and remitting statewide 911 fees.

Sec. 37. (a) For purposes of this section, "retail transaction" means the purchase of prepaid voice communications service from a seller for any purpose other than resale.

(b) For purposes of this section, "seller" means a person that sells prepaid voice communications service to another person.

(c) A seller shall collect the statewide 911 fee from the prepaid subscriber with respect to each retail transaction.

(d) The seller shall disclose to the prepaid subscriber the amount of the statewide 911 fee. The seller may separately state the amount of the statewide 911 fee on an invoice, a receipt, or a similar document that the seller provides to the prepaid subscriber in connection with the retail transaction.

(e) Subject to subsection (h), a seller shall remit statewide 911 fees collected under this section to the board at the time and in the manner prescribed by the board.

(f) The statewide 911 fee is the liability of the prepaid subscriber and not of the seller or a provider. However, a seller is liable to remit to the board all prepaid 911 fees that the seller collects from prepaid subscribers under this section, including all fees that the seller is considered to collect where the amount of the fee has not been separately stated on an invoice, receipt, or other similar document provided to the prepaid subscriber by the seller.

(g) The amount of the statewide 911 fee that is collected by a seller from a prepaid subscriber, whether or not separately stated on an invoice, receipt, or other similar document provided to the

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1 prepaid subscriber by the seller, may not be included in the base
 2 for determining a tax, fee, surcharge, or other charge that is
 3 imposed by the state, a political subdivision, or any other
 4 governmental agency.

5 (h) A seller may deduct and retain an amount not to exceed one
 6 percent (1%) of statewide 911 fees that the seller collects from
 7 prepaid subscribers to reimburse the direct costs incurred by the
 8 seller in collecting and remitting statewide 911 fees.

9 (i) The board, in conjunction with the department of state
 10 revenue, shall establish procedures by which a seller may
 11 document that a sale of prepaid wireless voice communications
 12 service is not a retail transaction.

13 (j) A seller of prepaid voice communications service is not liable
 14 for damages to a person resulting from or incurred in connection
 15 with the following:

16 (1) Providing or failing to provide 911 or wireless 911
 17 services.

18 (2) Identifying or failing to identify the telephone number,
 19 address, location, or name associated with a person or device
 20 that accesses or attempts to access 911 or wireless 911 service.

21 (3) Providing lawful assistance to an investigative or law
 22 enforcement officer of the United States, a state, or a political
 23 subdivision of a state in connection with a lawful investigation
 24 or other law enforcement activity by the law enforcement
 25 officer.

26 Sec. 38. (a) Subject to subsection (b), the board shall deposit all
 27 remitted statewide 911 fees in the fund.

28 (b) The board may deduct and retain an amount not to exceed
 29 one percent (1%) of remitted statewide 911 fees to reimburse the
 30 direct costs incurred by the board in administering the collection
 31 and remittance of statewide 911 fees.

32 Sec. 39. Collection of the statewide 911 fee is the liability of the
 33 seller or provider, as applicable. The seller or provider is liable to
 34 remit all statewide 911 fees collected from subscribers, including
 35 all fees a seller is deemed to collect where the amount of the fee has
 36 not been separately stated on an invoice, receipt, or other similar
 37 document provided to a prepaid subscriber by a seller.

38 Sec. 40. The amount of a statewide 911 fee that is collected by a
 39 seller or provider from a subscriber, whether separately stated on
 40 an invoice, receipt, or other document, may not be included in the
 41 base for measuring any tax, surcharge, or other charge, that is
 42 imposed by the state, a political subdivision, or other government

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agency.

Sec. 41. The following are not required to take legal action to enforce the collection of the 911 fee for which a subscriber is billed:

(1) A provider.

(2) A seller.

However, the board may initiate a collection action. A court finding for the board in the action may award reasonable costs and attorney fees associated with the collection action.

Sec. 42. The board shall administer the fund in the following manner:

(1) The board may use two percent (2%) of the statewide 911 fees deposited in the fund to recover the board's expenses in administering this chapter. However, the board may increase or decrease this percentage to allow for full recovery of administration expenses.

(2) The board shall distribute the remainder of the statewide 911 fees deposited in the fund to each PSAP in an amount determined by the board. In determining a distribution under this subdivision, the board shall consider the following:

(A) For a distribution during the fiscal year beginning July 1, 2010, the amount of 911 fee revenue the PSAP received during the fiscal year ending June 30, 2010.

(B) For a distribution during a fiscal year beginning after June 30, 2011, the costs incurred by the PSAP related to 911 services provided by the PSAP during the immediately preceding fiscal year.

The board may not distribute money in the fund in a manner that impairs the ability of the board to fulfill its management and administrative obligations under this chapter.

Sec. 43. (a) A PSAP may use a distribution under section 42(2) of this chapter only for the following:

(1) The lease, purchase, or maintenance of communications service equipment.

(2) Necessary system hardware and software and data base equipment.

(3) Personnel expenses, including wages, benefits, training, and continuing education.

(4) Consumer education concerning 911 service.

(5) Operational costs, including costs associated with:

(A) utilities;

(B) maintenance;

(C) equipment designed to provide backup power or

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1 system redundancy, including generators; and

2 (D) call logging equipment.

3 (6) An emergency telephone notification system under section
4 45 of this chapter.

5 (7) Connectivity to the Indiana data communications system
6 (IDACS).

7 (8) Other expenses approved by the board.

8 (b) A PSAP may not use a distribution under section 42(2) of
9 this chapter for the following:

10 (1) Construction, purchase, renovation, or furnishing of PSAP
11 buildings.

12 (2) Vehicles.

13 (3) Mobile radio equipment.

14 (4) Portable communications equipment.

15 (c) Not later than January 31 of each year, each PSAP shall
16 submit to the board a report of all expenditures made during the
17 immediately preceding calendar year from distributions under
18 section 42(2) of this chapter.

19 (d) Beginning July 1, 2011, the state board of accounts annually
20 shall audit the expenditures of distributions under section 42(2) of
21 this chapter made during the immediately preceding calendar year
22 by each PSAP that receives distributions under section 42(2) of this
23 chapter. In conducting an audit under this subsection, the state
24 board of accounts shall determine, in conjunction with the board,
25 whether the expenditures made by each PSAP are in compliance
26 with subsections (a) and (b).

27 (e) A distribution under section 42(2) of this chapter must be
28 deposited by the treasurer of the county in which the PSAP is
29 located in a separate fund set aside for the purposes allowed by
30 subsections (a) and (b). The fund must be known as the _____
31 (insert name of county) 911 fund. The county treasurer may invest
32 money in the fund in the same manner that other money of the
33 county may be invested, but income earned from the investment
34 must be deposited in the fund set aside under this subsection.

35 Sec. 44. (a) In cooperation with the board, a provider shall
36 designate a person to coordinate with and provide all relevant
37 information to the board to assist the board in carrying out its
38 duties under this chapter.

39 (b) A provider shall provide the automatic number
40 identification and any other information, including updates,
41 required by the board to the county, the municipality, an
42 authorized agent of a county or municipality, or the board or its

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1 authorized agent for purposes of establishing and maintaining a
 2 911 system data base. The board may use confidential information
 3 received under this subsection solely for the purpose of providing
 4 statewide 911 service.

5 Sec. 45. (a) As used in this section, "emergency telephone
 6 notification system" means an enhanced 911 system capability that
 7 provides service users within the territory served by a PSAP with
 8 a telephone warning of an emergency situation through a
 9 computerized warning system that uses 911 data base information
 10 and technology.

11 (b) As used in this section, "service supplier" means a provider
 12 that provides telephone exchange service (as defined in 47 U.S.C.
 13 153(47)) to a service user.

14 (c) As used in this section, "service user" means a person to
 15 whom telephone exchange service (as defined in 47 U.S.C. 153(47))
 16 is provided.

17 (d) A county may establish an emergency telephone notification
 18 system. A PSAP in the county may use funds distributed to it under
 19 section 42(2) of this chapter to establish and operate an emergency
 20 telephone notification system under this section.

21 (e) A service supplier shall provide to a PSAP the necessary
 22 subscriber data to enable the PSAP to implement an emergency
 23 telephone notification system under this section. The provision of
 24 data under this subsection is subject to section 46 of this chapter.
 25 In providing data under this subsection, the service supplier shall
 26 provide:

- 27 (1) the telephone number service address;
- 28 (2) the class of service; and
- 29 (3) a designation of listed, unlisted, or nonpublished;

30 for each service user in the PSAP's service territory. The service
 31 supplier shall provide this data to the PSAP on a quarterly basis.
 32 The service supplier may charge a reasonable fee to the PSAP for
 33 the administrative costs of providing the data.

34 Sec. 46. (a) A provider shall, upon request, provide to a PSAP
 35 the necessary subscriber data to enable the PSAP to implement and
 36 operate a 911 system. Subscriber data provided to a PSAP for the
 37 purpose of implementing or updating a 911 system may be used
 38 only to identify:

- 39 (1) a subscriber;
- 40 (2) a subscriber's place of primary use (as determined under
- 41 IC 6-8.1-15); or
- 42 (3) both subdivisions (1) and (2);

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1 and may not be used or disclosed by the PSAP, or its agents or
 2 employees, for any other purpose unless the data is used or
 3 disclosed under a court order. A person who recklessly, knowingly,
 4 or intentionally violates this subsection commits a Class A
 5 misdemeanor.

6 (b) After May 31, 1988, a contract entered into between a
 7 provider and a subscriber who has an unlisted or nonpublished
 8 telephone number may not include a provision that prohibits the
 9 provider from providing the subscriber's telephone number to a
 10 PSAP for inclusion in a 911 system data base. A provider (other
 11 than a provider who before June 1, 1988, has contracted to not
 12 divulge a subscriber's unlisted or nonpublished telephone number)
 13 shall provide a requesting PSAP with the name, telephone number,
 14 and place of primary use (as determined under IC 6-8.1-15) for
 15 each subscriber of the provider. A PSAP may not release a
 16 telephone number required to be provided under this subsection to
 17 any person except as provided in subsection (a).

18 (c) A provider may amend or terminate a contract with a
 19 subscriber if:

- 20 (1) the contract contains a provision that prohibits the
- 21 subscriber from providing the subscriber's telephone number
- 22 to a PSAP for inclusion in a 911 system data base;
- 23 (2) the exclusion of the number from the data base would
- 24 negate the purpose of this chapter; and
- 25 (3) the subscriber is notified of the proposed amendment or
- 26 termination of that contract at least one hundred eighty (180)
- 27 days before the provider takes that action.

28 Sec. 47. (a) All proprietary information submitted to the board
 29 or the treasurer of state is confidential. Notwithstanding any other
 30 law, proprietary information submitted under this chapter is not
 31 subject to subpoena, and proprietary information submitted under
 32 this chapter may not be released to a person other than to the
 33 submitting provider without the permission of the submitting
 34 provider.

35 (b) General information collected by the board or the treasurer
 36 of state may be released or published only in aggregate amounts
 37 that do not identify or allow identification of numbers of
 38 subscribers or revenues attributable to an individual provider.

39 Sec. 48. Notwithstanding any other law, the board, a PSAP, a
 40 political subdivision, a provider, or an employee, director, officer,
 41 or agent of a PSAP, a political subdivision, or a provider, or a
 42 member of the board or the board chair or the executive director,

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or an employee, agent, or representative of the board chair is not liable for damages in a civil action or subject to criminal prosecution resulting from death, injury, or loss to persons or property incurred by any person in connection with establishing, developing, implementing, maintaining, operating, and providing 911 service, except in the case of willful or wanton misconduct.

Sec. 49. A person may not use the 911 service except to make emergency calls that may result in dispatch of the appropriate response for fire suppression and rescue, emergency medical or ambulance services, hazardous material, disaster or major emergency occurrences, and law enforcement activities.

Sec. 50. (a) This section does not apply to a person that connects to a 911 network using automatic crash notification technology subject to an established protocol.

(b) A person may not connect an automatic alarm, automatic dialer, or other automated alerting device to a 911 network that:

- (1) causes the number 911 to be automatically dialed; or
- (2) provides through a prerecorded message information regarding obtaining 911 emergency service.

(c) A person who knowingly or intentionally violates this section commits a Class A misdemeanor.

Sec. 51. (a) A person who knowingly or intentionally places a 911 call:

- (1) for a purpose other than obtaining public safety assistance or emergency services; or
- (2) to avoid communications service charges or fees;

commits a Class A misdemeanor.

(b) A person who places repeated nonemergency 911 calls commits a Class D felony if the repeated nonemergency 911 calls result in a delayed response to an emergency 911 call that results in injury or death.

(c) A person who makes a false request for public safety assistance or emergency services to a PSAP through placement of a 911 call commits a Class D felony. The offense is a Class C felony if an emergency services provider suffers serious bodily injury in responding to the 911 call.

Sec. 52. (a) For purposes of this section, a PSAP includes a public safety communications system operated and maintained under IC 36-8-15.

(b) As used in this section, "PSAP operator" means:

- (1) a political subdivision; or
- (2) an agency;

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1 that operates a PSAP. The term does not include a state
2 educational institution that operates a PSAP or an airport
3 authority established for a county having a consolidated city.

4 (c) Subject to subsection (d), after December 31, 2014, a county
5 may not contain more than two (2) PSAPs. However, a county may
6 contain one (1) or more PSAPs in addition to the number of PSAPs
7 authorized by this section, as long as any additional PSAPs are
8 operated by:

9 (1) a state educational institution; or

10 (2) an airport authority established for a county having a
11 consolidated city.

12 (d) If, on March 15, 2008, a county does not contain more than
13 one (1) PSAP, not including any PSAP operated by an entity
14 described in subsection (c)(1) or (c)(2), an additional PSAP may not
15 be established or operated in the county on or after March 15,
16 2008, unless the additional PSAP is established and operated by:

17 (1) a state educational institution;

18 (2) in the case of a county having a consolidated city, an
19 airport authority established for the county; or

20 (3) the municipality having the largest population in the
21 county or an agency of that municipality.

22 (e) Before January 1, 2015, each PSAP operator in a county that
23 contains more than the number of PSAPs authorized by subsection
24 (c) shall enter into an interlocal agreement under IC 36-1-7 with
25 every other PSAP operator in the county to ensure that the county
26 does not contain more than the number of PSAPs authorized by
27 subsection (c) after December 31, 2014.

28 (f) An interlocal agreement required under subsection (e) may
29 include as parties, in addition to the PSAP operators required to
30 enter into the interlocal agreement under subsection (e), any of the
31 following that seek to be served by a county's authorized PSAPs
32 after December 31, 2014:

33 (1) Other counties contiguous to the county.

34 (2) Other political subdivisions in a county contiguous to the
35 county.

36 (3) Other PSAP operators in a county contiguous to the
37 county.

38 (g) An interlocal agreement required under subsection (e) must
39 provide for the following:

40 (1) A plan for the:

41 (A) consolidation;

42 (B) reorganization; or

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(C) elimination;
 of one (1) or more of the county's PSAPs, as necessary to
 ensure that the county does not contain more than the number
 of PSAPs authorized by subsection (c) after December 31,
 2014.

(2) A plan for funding and staffing the PSAP or PSAPs that
 will serve:

(A) the county; and

(B) any areas contiguous to the county, if additional parties
 described in subsection (f) participate in the interlocal
 agreement;

after December 31, 2014.

(3) Subject to any applicable state or federal requirements,
 protocol to be followed by the county's PSAP or PSAPs in:

(A) receiving incoming 911 calls; and

(B) dispatching appropriate public safety agencies to
 respond to the calls;

after December 31, 2014.

(4) Any other matters that the participating PSAP operators
 or parties described in subsection (f), if any, determine are
 necessary to ensure that the county does not contain more
 than the number of PSAPs authorized by subsection (c) after
 December 31, 2014.

(h) This section may not be construed to require a county to
 contain a PSAP.

SECTION 14. IC 36-9-13-3.5 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3.5. As used in this
 chapter, "system" means any of the following:

(1) A computer (as defined in IC 36-8-15-4) **(before its
 expiration on July 1, 2014).**

(2) A communications system (as defined in IC 36-8-15-3(1))
(before its expiration on July 1, 2014).

(3) Mobile or remote equipment that is coordinated by or linked
 with a computer or communication system.

(4) Upon the request of:

(A) the fiscal body of an eligible entity having a fiscal body;
 or

(B) the governing body of an eligible entity not having a fiscal
 body;

security services provided by human or nonhuman means.

SECTION 15. THE FOLLOWING ARE REPEALED [EFFECTIVE
 JULY 1, 2010]: IC 36-8-16; IC 36-8-16.5; IC 36-8-21.

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1 SECTION 16. [EFFECTIVE UPON PASSAGE] (a) As used in this
 2 SECTION, "board" refers to the statewide 911 board established
 3 by IC 36-8-16.6-26, as added by this act.

4 (b) The funds that remain in the wireless emergency telephone
 5 system fund established by IC 36-8-16.5-21 (before its repeal by
 6 this act on July 1, 2010) on July 1, 2010, shall be transferred to the
 7 statewide 911 fund established by IC 36-8-16.6-31, as added by this
 8 act.

9 (c) This SECTION expires January 1, 2011.

10 SECTION 17. [EFFECTIVE UPON PASSAGE] (a) The funds that
 11 remain in a county's wireless emergency telephone system fund
 12 established by IC 36-8-16.5-43 (before its repeal by this act on July
 13 1, 2010) on July 1, 2010, shall be transferred to the statewide 911
 14 fund established by IC 36-8-16.6-31, as added by this act. Any
 15 funds transferred under this SECTION shall be used as follows:

16 (1) To pay any obligations owed to any bondholders, third
 17 parties, or creditors under IC 36-8-16.5 (before its repeal by
 18 this act on July 1, 2010).

19 (2) To the extent any funds remain after meeting the
 20 obligations described in subdivision (1), for the purposes set
 21 forth in IC 36-8-16.6-43, as added by this act.

22 (b) This SECTION expires January 1, 2011.

23 SECTION 18. [EFFECTIVE UPON PASSAGE] (a) The funds that
 24 remain in an emergency telephone system fund established by a
 25 county under IC 36-8-16-13 (before its repeal by this act on July 1,
 26 2010) on July 1, 2010, shall be transferred to the statewide 911
 27 fund established under IC 36-8-16.6-31, as added by this act. Any
 28 funds transferred under this subsection shall be used as follows:

29 (1) To pay any obligations owed to any bondholders, third
 30 parties, or creditors under IC 36-8-16 (before its repeal by
 31 this act on July 1, 2010).

32 (2) To the extent any funds remain after meeting the
 33 obligations described in subdivision (1), for the purposes set
 34 forth in IC 36-8-16.6-43, as added by this act.

35 (b) The funds that remain in an emergency telephone system
 36 fund established by a municipality under IC 36-8-16-13 (before its
 37 repeal by this act on July 1, 2010) on July 1, 2010, shall be
 38 transferred to the statewide 911 fund established under
 39 IC 36-8-16.6-31, as added by this act. Any funds transferred under
 40 this subsection shall be used as follows:

41 (1) To pay any obligations owed by the municipality to any
 42 bondholders, third parties, or creditors under IC 36-8-16

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1 (before its repeal by this act on July 1, 2010).
 2 (2) To the extent any funds remain after meeting the
 3 obligations described in subdivision (1), for the purposes set
 4 forth in IC 36-8-16.6-43, as added by this act.
 5 (c) This SECTION expires January 1, 2011.
 6 SECTION 19. An emergency is declared for this act.

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